IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 15488 of 2004

Between:

R. Sadananda Rao, S/o. John Raghavaiah,
O/o. Dy. Commissioner (CT), Guntur II Division,

R/o. Guntur, Guntur District.

..... PETITIONER

AND

1 Government of A.P., Rep. by its Principal Secretary,
Revenue Department, Secretariat, Saifabad, Hyderabad.
2 The Commissioner of Commercial Taxes, Government of Andhra Pradesh, Rep.
By its Principal Secretary, Revenue Department, Secretariat, Saifabad, Hyderabad.
3 The Dy. Commissioner of Commercial Taxes,

Nellore Division, Nellore, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring proceedings No.Ref.No. Dz(4)/787/2001, dated 17/1/2004 of the 2nd Respondent as arbitrary, illegal, unjust, contrary to law, discriminatory with total non application of mind, thereby violative of Article 14 of the Constitution of India, contrary to the procedure contemplated under the Rules particularly Rule 21 of CCA Rules and amounts to post decisional hearing and consequentially set aside the same by setting the order of the A P Administrative Tribunal passed in O.A.No. 885 of 2004, dt. 7/5/2004.

Counsel for the Petitioner: MR.K.R.PRABHAKAR

Counsel for the Respondents: GP FOR SERVICES II

The Court made the following:

ORAL ORDER: (BY GB,J.)

The Writ Petition is filed challenging the order, dated 7.5.2004 passed by the A.P. Administrative Tribunal, Hyderabad, in O.A.No.885 of 2004.

2. The O.A. was filed challenging the show-cause notice dated 17.1.2004 issued by the Commissioner of Commercial Taxes seeking to differ with the finding of the Inquiry Officer. The tribunal after going into the matter dismissed the application on the ground that it is only show-cause notice and it is open for the petitioner-employee to file a reply to the show-cause notice raising all the grounds before the disciplinary authority which were raised before the tribunal. Against the said order, the present Writ Petition has been filed.

3. It is stated by the learned Government Pleader that the petitioner-employee has already filed the explanation to the show-cause notice and the Government after considering the matter issued proceedings in Memo No.44525/Vig.I(1)/2001-9 dated 9-11-2004 to the effect that it is not a fit case for imposition of major penalty, but it is a minor punishment and directed the Commissioner of Commercial Taxes to issue appropriate orders. The following is the extract of the Memo:

> "The attention of the Commissioner of Commercial Taxes, Hyderabad is invited to the references cited and he is informed that Government have examined the entire reports submitted through references 1st and 2nd cited and observe that neither corruption nor collusion was alleged in the matter. Hence, this is not a fit case to impost the major penalty.
>
> 2. The Commissioner of Commercial Taxes, Hyderabad is therefore, requested to impose one of the minor punishments against the charges officers as per ACS (CCA) Rules, 1991.
>
> 3. He is requested to acknowledge the receipt of this Memo."

4. In view of this, we do not find any ground to interfere with the order and accordingly, the Writ Petition is dismissed. No costs.

5. However, we make it clear that if any punishment order is passed, we leave it open to the petitioner to challenge the same, if he so chooses.

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(G. BIKSHAPATHY, J.)

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(P.S. NARAYANA, J.)

Date: 25-11-2004

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To

1 The Principal Secretary, Government of Andhra Pradesh,

Revenue Department, Secretariat, Saifabad, Hyderabad.
2 The Commissioner of Commercial Taxes, Government of Andhra Pradesh, rep., by its Principal Secretary, Revenue Department, Secretariat, Saifabad, Hyderabad.
3 The Dy. Commissioner of Commercial Taxes,

Nellore Division, Nellore, Nellore District.

4 The Registrar, A.P. Administrative Tribunal, Purani Haveli, Hyderabad.

5 2 CCs to the G.P for Services II, High Court Buildings, Hyderabad (O.U.T).

6 2CD copies